

AMENDED IN ASSEMBLY MAY 10, 2011
AMENDED IN ASSEMBLY MARCH 31, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 656

Introduced by Assembly Member Huber

February 16, 2011

An act to add Division 4.5 (commencing with Section 1100) to, ~~and~~ to add Chapter 7 (commencing with Section 1220) to Division 5 of, *and to repeal Division 5 (commencing with Section 1100) of*, the Harbors and Navigation Code, relating to bay pilots.

LEGISLATIVE COUNSEL'S DIGEST

AB 656, as amended, Huber. Bar pilots: Monterey Bay; and the Bays of San Francisco, San Pablo, and Suisun.

Existing law provides for the regulation and licensing of pilots for Monterey Bay; and the Bays of San Francisco, San Pablo, and Suisun, and the payment of specified pilotage rates and charges imposed on vessels piloted in those bays. Existing law also establishes in the Business, Transportation and Housing Agency, a Board of Pilot Commissioners for Monterey Bay; and the Bays of San Francisco, San Pablo, and Suisun, and prescribes the membership of, and functions and duties of the board. *Existing law establishes the Board of Pilot Commissioners' Special Fund, a continuously appropriated fund, for the purposes of receiving moneys received by the board in the implementation of the above provisions.*

This bill would, on January 1, ~~2013~~, ~~repeal those provisions that require the licensing of pilots in Monterey Bay, and the Bays of San Francisco, San Pablo, and Suisun, and that require the payment of~~

~~specified pilotage rates and charges imposed on vessels piloted in those bays. The bill would also~~ 2014, eliminate the board *and transfer the board's functions and duties to the Secretary of Business, Transportation and Housing*, and would recast and reenact certain provisions that regulate pilots for those bays, as provided. *The bill would rename the Board of Pilot Commissioners' Special Fund as the Bar Pilot Special Fund.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 4.5 (commencing with Section 1100)
2 is added to the Harbors and Navigation Code, to read:

3
4 DIVISION 4.5. PILOTS FOR MONTEREY BAY AND THE
5 BAYS OF SAN FRANCISCO, SAN PABLO, AND SUISUN

6
7 CHAPTER 1. LEGISLATIVE POLICY AND FINDINGS

8
9 1100. The Legislature finds and declares that it is the policy
10 of the state to ensure the safety of persons, vessels, and property
11 using Monterey Bay and the Bays of San Francisco, San Pablo,
12 and Suisun, and the tributaries thereof, and to avoid damage to
13 those waters and surrounding ecosystems as a result of vessel
14 collision or damage, by providing competent, efficient, and
15 regulated pilotage for vessels required by this division to secure
16 pilotage services.

17 1101. The Legislature further finds and declares all of the
18 following:

19 (a) The maritime industry is necessary for the continued
20 economic well-being and cultural development of all California
21 citizens.

22 (b) The Bays of San Francisco, San Pablo, and Suisun provide
23 a vital transportation route for the maritime industry.

24 (c) The increase in vessel size and traffic, and the increase in
25 cargoes carried in bulk, particularly oil and gas and hazardous
26 chemicals, create substantial hazards to the life, property, and
27 values associated with the environment of those waters.

(d) The federal government has long adopted the policy of providing minimum standards that ensure port and waterway safety while encouraging state control over pilot qualifications.

(e) A program of pilot regulation is necessary in order to ascertain and guarantee the qualifications, fitness, and reliability of qualified personnel who can provide safe pilotage of vessels entering and using Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.

(f) The need to ensure safe and pollution-free waterborne commerce requires that pilotage services be employed in the confined, crowded, and environmentally sensitive waters of those bays.

(g) Bar pilotage in the Bays of San Francisco, San Pablo, and Suisun has continuously been regulated by a single-purpose state board since 1850, and that regulation should be continued.

(h) The individual physical safety and well-being of pilots is of vital importance in providing required pilot services.

CHAPTER 2. APPLICATION

1105. This division applies to pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.

CHAPTER 3. DEFINITIONS

1109. *“Agency” means the Business, Transportation and Housing Agency.*

1110. (a) *“Bays of San Francisco, San Pablo, and Suisun” means all the waters of those bays and of the tributaries, ports, and harbors of those bays, and includes the water areas from the south end of San Francisco Bay and from the Ports of Sacramento and Stockton to the Golden Gate Bridge. “Bay of San Francisco, San Pablo, or Suisun” means any of those waters, respectively.*

(b) *“Monterey Bay” means all the waters of that bay and of the tributaries, ports, and harbors of that bay.*

1111. *“Former board” means the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, as created pursuant to former Section 1111.*

1112. *“High seas” includes all the navigable waters of the Pacific Ocean west of the Golden Gate Bridge, and all navigable*

1 waters west of the westward boundary of the pilotage grounds for
2 Monterey Bay.

3 1114. "Pilot" means either of the following:

4 (a) A person who pilots vessels including an inland pilot.

5 (b) A person licensed as a bar pilot for the Bays of San
6 Francisco, San Pablo, and Suisun prior to January 1, 2013.

7 1114.5. "Pilotage grounds" means all waters extending
8 eastward from the precautionary area surrounding buoy SF to, and
9 including, the Bays of San Francisco, San Pablo, and Suisun, and
10 also includes the waters of Monterey Bay, eastward of a straight
11 line drawn between Point Santa Cruz Light and Point Pinos Light.

12 1115. "Secretary" means the Secretary of Business,
13 Transportation and Housing.

14
15 *CHAPTER 3.5. DUTIES AND AUTHORITIES OF THE SECRETARY*
16 *OF BUSINESS, TRANSPORTATION AND HOUSING AGENCY*
17

18 1120. (a) *The secretary is vested with all functions and duties*
19 *relating to the administration of this division.*

20 (b) *The secretary's vested powers include the power to make*
21 *and enforce rules and regulations that are reasonably necessary*
22 *to carry out its provisions and to govern its actions. These rules*
23 *and regulations shall be adopted in accordance with Chapter 3.5*
24 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
25 *2 of the Government Code.*

26 1120.5. *The secretary may administer oaths in regard to any*
27 *matter properly before it and he or she may issue subpoenas for*
28 *witnesses in like cases. A witness disobeying the subpoena served*
29 *on him or her shall incur a penalty of five hundred dollars (\$500),*
30 *for which judgment may be recovered by the secretary in a civil*
31 *action. This section shall not apply to proceedings conducted in*
32 *accordance with Chapter 5 (commencing with Section 11500) of*
33 *Part 1 of Division 3 of Title 2 of the Government Code.*

34 1121. (a) *Whenever suspected safety standard violations*
35 *concerning pilot hoists, pilot ladders, or the proper rigging of pilot*
36 *hoists or pilot ladders are reported to the agency, the secretary*
37 *shall assign an investigator to personally inspect the equipment*
38 *for its compliance with the relevant safety standards promulgated*
39 *by the United States Coast Guard and the International Maritime*
40 *Organization. The investigator shall report preliminary*

1 *conclusions, including an assessment of the equipment's*
2 *compliance with the relevant safety standards, to the secretary as*
3 *soon as possible. If, in the preliminary report, the equipment is*
4 *found to be in violation, or in likely violation in the opinion of the*
5 *investigator, of the relevant safety standards, the secretary shall*
6 *immediately alert the cognizant United States Coast Guard office.*
7 *The investigator shall submit a written report to the secretary that*
8 *may include other reports, information, or statements from*
9 *interested parties. The secretary shall specify, by regulation, the*
10 *information that shall be contained in the report.*

11 *(b) This section applies to the pilotage grounds, as defined in*
12 *Section 1114.5. Whenever a vessel passes outside of the pilotage*
13 *grounds, the investigator's report shall include that fact along*
14 *with a description of the incident.*

15 *(c) The record of the investigation and the secretary's findings*
16 *and recommendations, if any, shall be a public record maintained*
17 *by the agency.*

18 *1121.5. The agency shall keep a written record of all the*
19 *secretary's proceedings and acts.*

20 *(a) The agency shall also keep a complete record of each pilot*
21 *appointed and licensed by the secretary that includes at a*
22 *minimum, his or her current mailing address, residence, the date*
23 *of the initial issuance and renewal of the license, the date of*
24 *completion for initial and any subsequent training, and a record*
25 *of any reports of meritorious activities, commendation, misconduct,*
26 *safety violations, or other incidents or information related or*
27 *relevant to the issuance and use of his or her pilot license.*

28 *(b) All pilots or inland pilots licensed by the secretary shall*
29 *provide the secretary with written notice of any change of name,*
30 *mailing address, or residence within 30 days of that change in a*
31 *manner prescribed by the secretary.*

32 *1122. (a) Except as provided in Section 1122.3, all records*
33 *of the agency relating to the personal information of a pilot, an*
34 *inland pilot, a pilot trainee, or an applicant to the pilot trainee*
35 *training program are confidential and shall not be open to public*
36 *inspection.*

37 *(b) For purposes of this section, "personal information" means*
38 *information, other than the name and mailing address, that*
39 *identifies an individual, including an individual's photograph,*
40 *social security number, address, telephone number, and medical*

1 or disability information, but does not include other information
2 related to licensing such as incidents, rules or safety violations,
3 misconduct, training records, commendations, and license status.

4 1122.1. The secretary shall establish procedures for access to
5 confidential or restricted information from the agency's records
6 to protect the confidentiality of the agency's employees and
7 licensees. If confidential or restricted information is released to
8 an agent of a person authorized to obtain information, the person
9 shall require the agent to take all steps necessary to ensure
10 confidentiality and prevent the release of information to a third
11 party. An agent shall not obtain or use confidential or restricted
12 records for any purpose other than the reason the information was
13 requested.

14 1122.2. The secretary or an employee of the agency who
15 willfully discloses confidential information from the agency record
16 to a person not authorized to receive it shall be liable for a civil
17 penalty not to exceed two thousand five hundred dollars (\$2,500)
18 for each violation, which may be assessed and recovered in a civil
19 action.

20 1122.3. Upon a request to the secretary by a federal, state, or
21 local law enforcement agency, the secretary shall make available
22 to the requesting agency any information contained in the agency's
23 records.

24 1122.4. On or before April 15, 2013, and annually thereafter,
25 the secretary shall submit to the Secretary of the Senate, and the
26 Chief Clerk of the Assembly a report describing the secretary's
27 activities pursuant to this division for the preceding calendar year.
28 The report shall include, but not be limited to, all of the following:

29 (a) The number of vessel movements across the bar, on the bays,
30 and on the rivers within the secretary's jurisdiction.

31 (b) The name of each licensed pilot, inland pilot, and pilot
32 trainee, and the status of each person. If a person has had more
33 than one status during the reporting year, each status and the
34 length of time in that status shall be indicated. For the purposes
35 of this section, "status" includes all of the following designations:

36 (1) Licensed and fit for duty.

37 (2) Licensed and not fit for duty.

38 (3) Licensed and on authorized training.

39 (4) Licensed and on active military duty.

40 (5) Licensed and on leave of absence.

1 (6) *Licensed but license suspended.*

2 (c) *A summary of each report of misconduct or a navigational*
3 *incident involving a pilot, inland pilot, or pilot trainee, or other*
4 *matters for which a license issued by the secretary may be revoked*
5 *or suspended. For those cases that have been closed, the summary*
6 *shall include a description of findings made by the incident review*
7 *committee and of the resulting action taken by the secretary. For*
8 *those cases that are still under investigation, the summary shall*
9 *include a description of the reported incident and an estimated*
10 *completion date for the investigation. For those closed cases*
11 *involving a pilot who has been involved in a prior incident where*
12 *a finding of pilot error had been made, the report shall also include*
13 *a summary of that incident.*

14 1123. *The secretary shall not engage in an employment,*
15 *activity, or enterprise that is clearly inconsistent, incompatible,*
16 *in conflict with, or inimical to his or her duties as a state officer*
17 *or make, participate in making, or attempt to use his or her official*
18 *position to in any way influence a governmental decision in which*
19 *he or she knows or has reason to know that he or she, or any*
20 *member of his or her immediate family, has a financial interest.*

21 1124. (a) *All moneys received by the agency pursuant to this*
22 *division shall be accounted for at the close of each month to the*
23 *Controller in the form that the Controller may prescribe and, at*
24 *the same time on the order of the Controller, all these moneys shall*
25 *be paid into the State Treasury to the credit of the Bar Pilot Special*
26 *Fund, which is hereby created in that State Treasury.*

27 (b) *Notwithstanding Section 13340 of the Government Code,*
28 *the moneys deposited in the State Treasury to the credit of the Bar*
29 *Pilot Special Fund are appropriated without regard to fiscal years*
30 *for the payment of the compensation and expenses of the agency*
31 *and its officers and employees.*

32 (c) *Monies in the former Board of Pilot Commissioners' Special*
33 *Fund shall be transferred to the Bar Pilot Special Fund.*

34 1124.1. (a) *The vessel shall pay a secretary operations*
35 *surcharge, the purpose of which is to fully compensate the*
36 *secretary and the agency for the official services, staff services,*
37 *and incidental expenses of the secretary and agency. The amount*
38 *of the surcharge shall be 7.5 percent of all pilotage fees charged*
39 *by pilots and inland pilots, pursuant to Sections 1190 and 1191*
40 *unless the secretary establishes, with the approval of the*

1 *Department of Finance, a lesser percentage, not to exceed any*
2 *percentage consistent with subdivision (d).*

3 *(b) The surcharge shall be billed and collected by the pilots and*
4 *inland pilots. The pilots and inland pilots shall pay all surcharges*
5 *collected by them to the secretary monthly or at such later time as*
6 *the secretary may direct.*

7 *(c) The secretary shall quarterly review its ongoing and*
8 *anticipated expenses and adjust the surcharge to reflect any*
9 *changes which have occurred since the last adjustment.*

10 *(d) The secretary operations surcharge shall not represent a*
11 *percentage significantly more than that required to support the*
12 *secretary and the agency related to the administration of the*
13 *secretary pursuant to subdivision (a) in addition to the maintenance*
14 *of a reasonable reserve.*

15
16 CHAPTER 4. EXCLUSIVE RIGHTS AND DUTIES OF PILOTS
17

18 1125. (a) Pilots have exclusive authority, to the extent not
19 provided otherwise by federal law, to pilot vessels from the high
20 seas to Monterey Bay and the Bays of San Francisco, San Pablo,
21 and Suisun and the ports thereof, and from those bays and ports
22 to the high seas. They shall also have exclusive authority to pilot
23 vessels within and along the waters of those bays, except as
24 otherwise set forth in this division.

25 (b) Nothing in this division shall interfere with pilotage
26 regulations of Monterey Bay and of the Ports of Sacramento and
27 Stockton, nor prevent the regulatory authority of those ports from
28 utilizing the pilots covered by this division.

29 1126. (a) A person may also be enjoined from engaging in the
30 pilotage prescribed by a court of competent jurisdiction.

31 (b) This section does not apply to any of the following persons:

32 (1) The master of a vessel who has relieved the pilot to ensure
33 the safe operation of the vessel, but only from the point where the
34 pilot is relieved to the closest safe berth or anchorage, or the high
35 seas if closer than a safe berth or anchorage.

36 (2) Persons piloting vessels pursuant to the valid regulatory
37 authority of the Port of Sacramento or the Port of Stockton.

38 (3) Persons piloting vessels sailing under an enrollment.

39 (4) Persons piloting noncommercial vessels.

1 1127. (a) The Legislature finds and declares that it is the policy
2 of the state to ensure the safety of persons, property, and vessels
3 using the waters of Monterey Bay and the Bays of San Francisco,
4 San Pablo, and Suisun and to avoid damage to those waters and
5 surrounding ecosystems as a result of vessel collision or damage
6 by providing competent, efficient, and regulated pilotage for vessels
7 required by this division to secure pilotage services.

8 (b) This section does not supersede, modify, or otherwise alter
9 pilot practices that are not safety related, including, but not limited
10 to, the determination of rates charged for pilot services or
11 employer-employee relationships for individuals, agencies, or
12 organizations involved in providing pilotage services between any
13 port of Monterey Bay and the Bays of San Francisco, San Pablo,
14 and Suisun and any other port of the United States that is in
15 existence on December 31, 1995, or otherwise abridge the authority
16 of local port or harbor districts relating to pilotage in effect on
17 December 31, 1995.

18 (c) A vessel sailing under a coastwise license or appropriately
19 endorsed registry and engaged in the coasting trade between a port
20 of Monterey Bay and the Bays of San Francisco, San Pablo, and
21 Suisun and another port of the United States is exempt from all
22 pilotage charges. A foreign vessel and a vessel bound between a
23 foreign port and a port of Monterey Bay and the Bays of San
24 Francisco, San Pablo, and Suisun, and a vessel sailing under a
25 register between a port of Monterey Bay and the Bays of San
26 Francisco, San Pablo, and Suisun and another port of the United
27 States, shall use a pilot or inland pilot, except as otherwise provided
28 by law.

29 (d) Subdivision (c) does not apply to a vessel that is less than
30 750 gross tons and is manufactured and used for private recreation.

31 1128. A nonself-propelled vessel in tow of a tug within
32 Monterey Bay and the Bay of San Francisco, San Pablo, or Suisun,
33 or between those bays, is exempt from pilotage charges.

34 1130. A majority of all of the pilots shall appoint one pilot to
35 act as port agent to carry out applicable laws, and to otherwise
36 administer the affairs of the pilots.

37 1132. Every pilot in charge of a vessel arriving in Monterey
38 Bay and the Bay of San Francisco, San Pablo, or Suisun, shall
39 safely moor the vessel in place and position as directed by the

1 master of the vessel, consistent with safe navigation and not
2 contrary to law.

3 1133. Every pilot in charge of a vessel leaving the Bays of San
4 Francisco, San Pablo, and Suisun shall pilot it from its point of
5 departure to a point beyond the San Francisco bar. Every pilot in
6 charge of a vessel leaving Monterey Bay shall pilot it from its
7 point of departure to a point westward of the pilotage grounds.

8
9 CHAPTER 5. PENSION PLAN

10
11 1160. There is hereby established a San Francisco Bar Pilot
12 Pension Plan which is continued in existence as the San Francisco
13 Pilot Pension Plan.

14 1161. All amounts generated by the pension plan shall be used
15 solely to pay pensions to retired pilots and inland pilots, disabled
16 pilots and inland pilots, the surviving spouses of pilots and inland
17 pilots, and to pay the expenses of the plan.

18 1163. (a) (1) (A) Each retired pilot and inland pilot, who has
19 completed 25 full years of service as a pilot or inland pilot, or both,
20 shall receive, as a target monthly pension, an amount that is initially
21 equal to 46 percent of an amount that is an average of the highest
22 three of the last five years of audited annual average net income
23 per pilot, prior to the pilot's or inland pilot's retirement, divided
24 by 12, which initial target monthly pension amount shall be subject
25 to periodic adjustment pursuant to Section 1167. Pilots or inland
26 pilots with other than 25 full years of service as a pilot or inland
27 pilot, or both, shall receive a monthly pension in an amount that
28 is determined by multiplying the above calculated target monthly
29 pension by a fraction, the numerator of which shall be the number
30 of full years of service that the pilot or inland pilot has rendered
31 and the denominator of which shall be 25 years, which initial
32 monthly pension amount shall be subject to periodic adjustment
33 pursuant to Section 1167.

34 (B) Each disabled pilot or inland pilot shall receive as an initial
35 target monthly pension an amount that is based on 46 percent of
36 the greater of the following, which amount shall be subject to
37 periodic adjustment pursuant to Section 1167:

38 (i) An amount that is the average of the highest three of the last
39 five years of audited annual average net income per pilot divided
40 by 12 and multiplied by a fraction, the numerator of which shall

1 be the number of full years of service that the pilot or inland pilot
2 has rendered and the denominator of which shall be 25 years.

3 (ii) The audited annual average net income per pilot, for the last
4 year prior to the pilot's or inland pilot's disability, divided by 12
5 and multiplied by a fraction, the numerator of which shall be the
6 number of full years of service that the pilot or inland pilot has
7 rendered and the denominator of which shall be 25 years.

8 (C) Each pilot who retired before January 1, 1985, shall receive
9 as an initial target monthly pension an amount that is one hundred
10 seventy-eight dollars (\$178) multiplied by the number of full years
11 of service he or she performed as a pilot licensed under this
12 division, which amount shall be subject to periodic adjustment
13 pursuant to Section 1167.

14 (D) Each pilot who retired on or after January 1, 1985, or each
15 inland pilot who retired after January 1, 1993, shall receive as an
16 initial target monthly pension an amount that is the greater of the
17 following, which amount shall be subject to periodic adjustment
18 pursuant to Section 1167:

19 (i) An amount that is calculated by multiplying one hundred
20 seventy-eight dollars (\$178) by the number of full years of service
21 the pilot or inland pilot performed as a pilot or inland pilot licensed
22 under this division.

23 (ii) An amount that is 46 percent of the average of the highest
24 three of the last five years of audited annual average net income
25 per pilot, prior to the pilot's or inland pilot's retirement, divided
26 by 12 and multiplied by a fraction, the numerator of which is the
27 pilot's or inland pilot's actual number of full years of service and
28 the denominator of which is 25 years.

29 (2) A pilot or inland pilot who retires or becomes disabled shall
30 not begin to receive a pension until the beginning of the benefit
31 payment period next following the date on which the pilot or inland
32 pilot retires or becomes disabled.

33 (3) A pilot or inland pilot shall not receive any benefits pursuant
34 to the pension plan in any benefit payment period unless the pilot's
35 or inland pilot's resignation as an active pilot or inland pilot
36 specifying a proposed date of retirement was submitted, in writing,
37 to the ~~board~~ *secretary*, prior to November if the pilot's or inland
38 pilot's retirement is to be effective the first day of the following
39 January, prior to February if the pilot's or inland pilot's retirement
40 is to be effective the first day of the following April, prior to May

1 if the pilot's or inland pilot's retirement is to be effective the first
2 day of the following July, or prior to August if the pilot's or inland
3 pilot's retirement is to be effective the first day of the following
4 October. The pilot's or inland pilot's resignation as an active pilot
5 or inland pilot shall become effective on either January 1, April
6 1, July 1, or October 1, as specified in the written resignation.

7 (4) If a retired or disabled pilot or inland pilot who is receiving
8 a pension dies without a surviving spouse, the pilot's or inland
9 pilot's successor in interest shall receive the monthly pension for
10 the remainder of the benefit payment period within which the death
11 occurs, after which time the monthly pension shall cease.

12 (b) (1) The surviving spouse of a deceased pilot who is eligible
13 for a pension pursuant to paragraph (1) of subdivision (e) of Section
14 1164 and the surviving spouse of a deceased inland pilot who is
15 eligible for a pension pursuant to paragraph (2) of subdivision (e)
16 of Section 1164 shall each receive, as a monthly pension,
17 three-fourths of the amount that the deceased pilot or inland pilot
18 would have received as a monthly pension pursuant to this section
19 had the pilot or inland pilot lived, calculated as if the deceased
20 pilot or inland pilot had been disabled pursuant to subparagraph
21 (B) of paragraph (1) of subdivision (a).

22 (2) If a retired or disabled pilot or inland pilot who was receiving
23 a pension dies, the surviving spouse shall continue to receive the
24 full amount of the monthly pension to which the deceased pilot or
25 inland pilot was entitled for the balance of the benefit payment
26 period within which the death occurs, after which the surviving
27 spouse shall receive the amount specified in paragraph (1).

28 (3) If a surviving spouse receiving a pension dies, the surviving
29 spouse's successor in interest shall receive the monthly pension
30 for the remainder of the benefit payment period within which the
31 death occurs, after which time the monthly pension shall cease.

32 (c) For the purpose of the computations described in paragraph
33 (1) of subdivision (a), six months or more of service by a pilot or
34 inland pilot shall be considered a full year.

35 (d) Except as provided otherwise in this section and paragraph
36 (4) of subdivision (e) of Section 1164, monthly pension amounts
37 payable pursuant to this section to retired pilots and inland pilots
38 and to their surviving spouses are payable for the life of that retired
39 pilot, inland pilot, or spouse.

1 (e) To determine an inland pilot's full years of service under
2 this chapter, any periods of service that an inland pilot has
3 performed as a pilot shall be added to any service time performed
4 as an inland pilot after January 1, 1987.

5 (f) In calculating the benefits of a retired or disabled pilot who
6 was issued an original pilot's license in 1985 and who was not
7 thereafter issued an inland pilot's license, or in calculating the
8 benefits of the widow of such a pilot who is deceased, the number
9 of years of service used in the calculation shall be the greater of
10 the following:

11 (1) The actual number of full years of service the pilot has
12 rendered.

13 (2) Ten years.

14 1164. (a) Except as provided in subdivision (b), a pilot shall
15 be eligible for the pension provided in Section 1163 if the pilot
16 meets all of the following requirements:

17 (1) Held a license as a pilot and served at least 10 years in that
18 capacity or has attained 62 years of age, whichever occurs first.

19 (2) Retired after January 1, 1972.

20 (3) Is at least 60 years of age.

21 (b) A disabled pilot shall be eligible for the pension provided
22 in Section 1163 if it has been determined by the ~~board~~ secretary,
23 based upon competent medical evidence, that the pilot is unable
24 to perform the duties of a pilot. As used in this chapter, "disabled"
25 means a disability of permanent or extended and uncertain duration,
26 as determined by the ~~board~~ secretary, on the basis of competent
27 medical opinion.

28 (c) Except as provided in subdivision (d), an inland pilot shall
29 be eligible for the pension provided in Section 1163 if the inland
30 pilot meets all of the following requirements:

31 (1) Held a license as an inland pilot and served at least 10 years
32 in that capacity after January 1, 1987, or has attained 62 years of
33 age, whichever occurs first.

34 (2) Retired after January 1, 1987.

35 (3) Is at least 60 years of age.

36 (4) Since January 1, 1987, has held himself or herself out as
37 providing pilotage assistance to the entire shipping industry
38 consistent with the inland pilot's license.

39 (5) For services provided after January 1, 1994, performs a
40 minimum of 75 assignments per calendar year unless excused from

1 performance of that requirement due to medical needs satisfactory
2 to the ~~board~~ *secretary*.

3 (d) A disabled inland pilot who meets the requirements of
4 paragraph (4) of subdivision (c) shall be eligible for the pension
5 provided in Section 1163 if it has been determined by the ~~board~~
6 *secretary*, based upon competent medical evidence, that the inland
7 pilot is unable to perform the duties of an inland pilot.

8 (e) (1) A surviving spouse of a deceased pilot shall be eligible
9 for the pension provided in subdivision (b) of Section 1163 if that
10 deceased pilot died after January 1, 1972, and that deceased pilot
11 had held a license as a pilot.

12 (2) A surviving spouse of a deceased inland pilot shall be
13 eligible for the pension provided in subdivision (b) of Section 1163
14 if the deceased inland pilot died after January 1, 1987, had held a
15 license as an inland pilot, and since January 1, 1987, had held
16 himself or herself out as providing pilotage assistance to the entire
17 shipping industry consistent with the inland pilot's license.

18 (3) In order for a surviving spouse to be eligible for any pension
19 benefits pursuant to this chapter, the surviving spouse shall have
20 been legally married to the deceased pilot or inland pilot for at
21 least one year prior to the deceased pilot's or inland pilot's death.

22 (4) A surviving spouse of a deceased pilot or inland pilot shall
23 neither be eligible for, nor receive, pension benefits pursuant to
24 this chapter if the surviving spouse remarries. If a surviving spouse
25 who is receiving a monthly pension under this chapter remarries,
26 the surviving spouse's successor in interest shall receive the amount
27 of the monthly pension for the remainder of the benefit payment
28 period as if the surviving spouse had died, in accordance with
29 paragraph (3) of subdivision (b) of Section 1163.

30 1165. (a) A charge shall be levied for pilotage services at a
31 rate necessary to provide the benefits to be paid out pursuant to
32 the pension plan. The additional rate shall be determined as
33 follows:

34 (1) On March 1, June 1, September 1, and December 1 of each
35 year, the number of persons eligible to receive benefits under the
36 plan, their identities, the calculated amount each shall be entitled
37 to receive, and the total amount to be paid out to all of those
38 persons during each month of the next three-month period shall
39 be determined by the fiduciary agent or agents.

(2) After the total amount to be paid out monthly under the plan has been determined, the rate necessary to provide that amount each month shall be calculated by the fiduciary agent or agents. The rate shall be based upon the volume of shipping, in gross registered tons, handled by pilots under this division for the 12-month periods ending the previous September 30 for benefit periods commencing the following January 1, ending the previous December 31 for benefit periods commencing the following April 1, ending the previous March 31 for benefit periods commencing the following July 1, and ending the previous June 30 for benefit periods commencing the following October 1, respectively. The rate shall be expressed as mills per gross registered ton and shall be calculated to the nearest one-hundredth of a mill.

(3) The estimated cost of the services of the fiduciary agent or agents to administer the pension plan shall be calculated by the fiduciary agent or agents for the benefit periods described in paragraph (2), shall be expressed as mills per gross registered ton, and shall be calculated to the nearest one-hundredth of a mill.

(b) The rate determined pursuant to paragraphs (1), (2), and (3) of subdivision (a) shall become effective on January 1 of the following year with respect to the September 30 calculations, on April 1 of the following year with respect to the December 31 calculations, on July 1 of that year with respect to the March 31 calculations, and on October 1 of that year with respect to the June 30 calculations. The rates shall be in effect for the succeeding benefit payment period.

1166. (a) The benefits actually paid out each month by the fiduciary agent or agents designated by the ~~board~~ *secretary* to all retired and disabled pilots and inland pilots, to surviving spouses of deceased pilots and inland pilots, and to successors in interest shall be equal to the revenue received pursuant to Section 1165 during the preceding month less the expenses of the fiduciary agent or agents incurred during that month. The revenue, whether greater or less than the amount used in determining the tonnage rates under this chapter to provide the aggregate target pensions to which those persons are entitled according to Section 1163, shall be paid to each of them in proportion to the relative target amounts to which they are entitled, after payment of the expenses of the fiduciary agent or agents.

(b) Revenues for any month or year are the amounts to be received pursuant to the pension plan for pilotage during that month or year. The fiduciary agent or agents shall determine which accounting system shall be used to make the payment, provided that, if the accrual method is used, it shall be subject to later equitable adjustments for unpaid receivables.

(c) Benefits pursuant to the new rate calculations shall be paid commencing in February, May, August, and November of each year and shall continue through, and include, the next following April, July, October, and January, respectively, so that each benefit pension period equals three months of payments. The period during which benefits are paid is the benefit payment period.

CHAPTER 6. LICENSING OF PILOTS

Article 1. Issuance of License

1170. The secretary shall appoint and license the number of pilots which is sufficient to carry out the purposes of this division.

1170.1. In determining the number of pilots needed, pursuant to Section 1170, the secretary shall take into consideration the findings and declarations in Sections 1100 and 1101, the results of an audit made pursuant to, and the factors specified in, Section 1203, the industry's current economic trends, fluctuations in the number of vessel calls, the size of vessels, and whether the need for pilotage is increasing or decreasing.

1170.2. Before changing the number of pilots which may be licensed pursuant to this division, the secretary shall conduct a hearing pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

1170.3. (a) The secretary shall adopt, by regulation, a pilot's conflict-of-interest code that shall include, but need not be limited to, a provision specifying that a pilot shall not have any interest in, or derive any income from, any tugboat in operation on Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun. This requirement of divestiture does not apply to the ownership of barges and vessels similar to barges.

(b) The conflict-of-interest code shall not prohibit the ownership of stock in any corporation registered on a national securities

1 *exchange or on the National Market System of the NASDAQ Stock*
2 *Market, pursuant to Section 78f of Title 15 of the United States*
3 *Code, which may own tugboats in operation on Monterey Bay and*
4 *the Bays of San Francisco, San Pablo, and Suisun.*

5 *1171. (a) The secretary shall have the sole authority to*
6 *determine the qualifications for obtaining a license as a pilot or*
7 *inland pilot pursuant to this division, determine who shall have*
8 *such a license, and issue the license.*

9 *(b) All persons possessing a valid state pilot's license on*
10 *January 1, 1985, are hereby licensed as if the license was granted*
11 *by the secretary.*

12 *1171.5. (a) The secretary shall adopt, by regulation, licensing*
13 *standards that equal or exceed standards for obtaining federal*
14 *endorsements and that conform with and support the state policy*
15 *specified in Sections 1100 and 1101.*

16 *(b) The secretary shall adopt reasonable rules and regulations*
17 *that require pilots to be qualified to perform all pilot duties.*

18 *(c) The secretary shall adopt, by regulation, training standards*
19 *and a training program for pilot trainees, and continuing education*
20 *standards and a continuing education program for pilots and*
21 *inland pilots. In the case of pilot trainees, the training program*
22 *shall be for a minimum of one year and a maximum of three years.*
23 *In the case of pilots and inland pilots, the secretary shall specify*
24 *the type, nature, duration, and frequency of the continuing*
25 *education required and the identity of the pilots or inland pilots*
26 *who are required to undergo continuing education in the next*
27 *12-month period. Pursuant to Section 1182, the license of a pilot*
28 *or an inland pilot may be revoked or suspended if he or she fails*
29 *to complete the continuing education required by this subdivision*
30 *during the period specified. The secretary shall also require that*
31 *an evaluation of the pilot's or inland pilot's performance be*
32 *prepared by the institution selected by the secretary to provide*
33 *pilot continuing education, and the institution shall provide copies*
34 *of the evaluation to the pilot or inland pilot and to the secretary.*

35 *(d) The secretary shall adopt, by regulation, the qualifications,*
36 *standards, and rating criteria for admission of pilot trainees to*
37 *the training program. Notwithstanding subdivision (f), the secretary*
38 *shall administer and conduct the pilot trainee admission selection*
39 *in accordance with the regulations for admission.*

1 (e) The secretary shall establish a pilot evaluation committee
2 consisting of five active pilots who each have at least 10 years'
3 experience as a pilot on the Bays of San Francisco, San Pablo,
4 and Suisun. The secretary shall select the members of the pilot
5 evaluation committee. A member may not serve for more than two
6 four-year terms, except that two of the initial members appointed
7 to the pilot evaluation committee shall serve terms of two years.

8 (f) The pilot evaluation committee shall conduct and supervise
9 the pilot trainee training program pursuant to the direction and
10 regulation of the secretary and consistent with the intent of this
11 division.

12 (g) The secretary shall issue a certificate of completion to each
13 pilot trainee who satisfactorily completes the training program.
14 The secretary shall not issue a pilot's license to any person who
15 does not receive a certificate of completion of the training program
16 from the secretary, although the secretary may refuse to issue a
17 pilot license to a pilot trainee who has received this certificate.

18 (h) The training program for pilot trainees and the continuing
19 education program for pilots and inland pilots shall be funded
20 from revenues collected for these purposes as determined by the
21 secretary pursuant to Sections 1195 and 1196 and deposited into
22 the Bar Pilot Special Fund pursuant to Section 1124.

23 1172. Pilots licensed by the secretary shall be carefully
24 examined as to their qualifications. A license as a pilot shall be
25 granted for a term of 12 months. The license shall be renewed
26 annually unless the secretary has good cause to withhold renewal
27 pursuant to Article 2 (commencing with Section 1180).

28 1173. An application for a pilot's license shall be made in
29 writing to the secretary, stating the information that the secretary
30 by rule and regulation may require.

31 1174. A pilot's license shall be issued in the name of the State
32 of California and contain a designation of the waters for which it
33 is intended. The license shall be signed by the secretary.

34 1175. A person shall not be licensed as a pilot unless all of the
35 following requirements are met:

36 (a) The person can meet the qualifications set by the secretary,
37 including age limitations, if any.

38 (b) The person is of good mental and physical health and good
39 moral character.

1 (c) *The person possesses the requisite skill and experience as*
2 *a navigator and pilot, together with practical knowledge of the*
3 *currents, tide, soundings, bearings, and distances of the several*
4 *shoals, and the rocks, bars, points of landings, lights, and fog*
5 *signals of, or pertaining to, the navigation of the pilot ground for*
6 *which the person applies for a license to act as a pilot.*

7 (d) *The person can satisfy the secretary that the person has*
8 *means available for boarding and leaving vessels which the person*
9 *may be called upon to pilot.*

10 1176. (a) *The secretary shall appoint a physician or physicians*
11 *who are qualified to determine the suitability of a person to*
12 *perform his or her duties as a pilot, an inland pilot, or a pilot*
13 *trainee in accordance with subdivision (c).*

14 (b) *An applicant for a pilot trainee position or for a pilot license,*
15 *or an existing pilot trainee, a pilot, or an inland pilot seeking*
16 *renewal of his or her license shall undergo a physical examination*
17 *by a secretary-appointed physician in accordance with standards*
18 *prescribed by the secretary. Within 30 days prior to the*
19 *examination, the applicant or licensee shall submit to the physician*
20 *conducting the physical examination a complete list of all*
21 *prescribed medications being taken by or administered to the*
22 *applicant or licensee.*

23 (c) *On the basis of both the examination and an evaluation of*
24 *the effects of the prescription medications named on the submitted*
25 *list, the physician shall designate to the secretary whether or not*
26 *the pilot, inland pilot, or pilot trainee is fit to perform his or her*
27 *duties as a pilot, an inland pilot, or a pilot trainee.*

28 (d) *The license of a pilot or an inland pilot shall not be renewed*
29 *unless he or she is found fit for duty pursuant to subdivision (c).*

30 (e) *Whenever a pilot, an inland pilot, or a pilot trainee is*
31 *prescribed either a new dosage of a medication or a new*
32 *medication, or suspends the use of a prescribed medication, he or*
33 *she shall, within 10 days, submit that information to the*
34 *secretary-appointed physician having possession of the prescribed*
35 *medication list submitted pursuant to subdivision (b). Whenever*
36 *the physician receives the updated information, the physician shall*
37 *determine whether or not the medication change affects the*
38 *licensee's or trainee's fitness for duty. If the physician determines*
39 *that the medication change results in the pilot, inland pilot, or*

1 *pilot trainee being unfit for duty, the physician shall inform the*
2 *secretary.*

3 *(f) The secretary may terminate a pilot trainee or suspend or*
4 *revoke the license of a pilot or an inland pilot who fails to submit*
5 *the prescribed medication information required by this section.*

6 *1177. (a) All pilots licensed pursuant to this division shall*
7 *have and maintain proper federal endorsements allowing them to*
8 *pilot on the high seas and on all waters of the Bays of San*
9 *Francisco, San Pablo, and Suisun, excluding the San Joaquin*
10 *River and the Sacramento deep water ship channel.*

11 *(b) Notwithstanding subdivision (a), all pilots issued original*
12 *licenses pursuant to this division after January 1, 2014, shall have*
13 *and maintain proper federal endorsements allowing them to pilot*
14 *on the high seas and on all waters of the Bays of San Francisco,*
15 *San Pablo, and Suisun, including the San Joaquin River and the*
16 *Sacramento deep water ship channel.*

17 *(c) All pilots licensed pursuant to this division for Monterey*
18 *Bay shall have and maintain proper federal endorsements allowing*
19 *them to pilot on the high seas and on all the waters of Monterey*
20 *Bay.*

21 *1178. Persons applying for an original license shall not receive*
22 *a license unless they have proper federal endorsements allowing*
23 *them to pilot on the high seas and all the waters of those bays*
24 *pursuant to Section 1171.*

25 *1179. Notwithstanding any other provision of this division,*
26 *any shipping company which regularly employed its employees,*
27 *or expressed its intent to the secretary to use its employees, for*
28 *piloting vessels on the Bays of San Francisco, San Pablo, and*
29 *Suisun on or before July 1, 1983, may employ and use its employees*
30 *in that manner in lieu of pilots provided under this chapter.*
31 *However, this use of employees as pilots on foreign flag vessels*
32 *shall be limited to five vessel calls per year for those shipping*
33 *companies that have only expressed their intent to use their*
34 *employees in lieu of pilots. This limitation shall not apply to those*
35 *shipping companies which regularly employed their employees*
36 *for piloting vessels prior to July 1, 1983.*

37
38 *Article 2. Suspension or Revocation*
39

1 1180. When, in the opinion of the secretary, there is reasonable
2 cause to believe that the public interest requires that a pilot or
3 inland pilot be summarily suspended pending hearing on charges
4 of misconduct which include any of the causes for suspension or
5 revocation specified in Section 1181 or when the secretary has
6 information which leads it to believe that a pilot or inland pilot
7 has become unable to comply with the standards of health or
8 physical condition requisite to a pilot's or inland pilot's duties,
9 the secretary may, without hearing, temporarily suspend the license
10 of the pilot or inland pilot for not exceeding 40 days pending
11 hearing and decision on the charges. Unless an accusation on the
12 charge is served on the pilot or inland pilot as provided in Chapter
13 5 (commencing with Section 11500) of Part 1 of Division 3 of Title
14 2 of the Government Code, prior to the close of the sixth day after
15 the suspension becomes effective, the temporary suspension
16 terminates at the close of the sixth day.

17 1180.6. (a) The secretary, after full consideration of the
18 evidence, report, and recommendations relating to an incident,
19 misconduct, or other matter, shall take one or more of the following
20 actions:

21 (1) Serve an accusation for suspension or revocation of the
22 pilot's or inland pilot's license on the pilot or inland pilot, as
23 provided in Chapter 5 (commencing with Section 11500) of Part
24 1 of Division 3 of Title 2 of the Government Code, pursuant to
25 Sections 1181 and 1182.

26 (2) Enter into a written stipulation for corrective action to be
27 performed by the pilot or inland pilot, which may include, but is
28 not limited to, further training or supervised practice trips.

29 (3) Provide counseling for the pilot or inland pilot relating to
30 the duties and obligations of a pilot.

31 (4) Issue a warning letter of reprimand to the pilot or inland
32 pilot.

33 (5) Take any other action, as provided in the guidelines adopted
34 pursuant to subdivision (d).

35 (6) Close the investigation without further action.

36 (7) Conduct further investigation.

37 (b) The secretary shall note any action taken pursuant to this
38 section in a pilot's or inland pilot's record and shall establish a
39 suspense file to ensure that all training, practice trips, or other

1 *corrective action required to be performed pursuant to subdivision*
2 *(a) by the pilot or inland pilot are completed as required.*

3 *(c) If the secretary determines that the pilot or inland pilot has*
4 *intentionally failed to complete training, practice trips, or other*
5 *corrective action, the secretary may take additional action as*
6 *specified in subdivision (a).*

7 *(d) The secretary shall adopt guidelines for the determination*
8 *by the incident review committee of the action to be taken pursuant*
9 *to subdivision (a).*

10 *1181. The license of a pilot or inland pilot may be revoked or*
11 *suspended before its expiration only for reasons of misconduct,*
12 *which shall include, but not be limited to, the following:*

13 *(a) Neglect, for 30 days after it becomes due, to render an*
14 *account to the secretary of all money received for pilotage.*

15 *(b) Neglect, for 30 days after it becomes due, to pay over to the*
16 *secretary the percentage of all pilotage money received, as set by*
17 *the secretary.*

18 *(c) Rendering to the secretary a false account of pilotage*
19 *received.*

20 *(d) Absence from duty for more than one month at any one time*
21 *without leave granted by the secretary, unless sickness or personal*
22 *injury causes the absence. This subdivision does not apply to inland*
23 *pilots.*

24 *(e) Refusing to exhibit the pilot or inland pilot license when*
25 *requested to do so by the master of any vessel boarded.*

26 *(f) Intoxication or being under the influence of any substance*
27 *or combination of substances that so affects the nervous system,*
28 *brain, or muscles as to impair, to an appreciable degree, the ability*
29 *to conduct the duties of a pilot or inland pilot while on duty.*

30 *(g) Negligently, ignorantly, or willfully running a vessel on*
31 *shore, or otherwise rendering it liable to damage, or otherwise*
32 *causing injury to persons or damage to property. However, this*
33 *subdivision does not apply to a vessel of less than 300 gross tons*
34 *unless a pilot or inland pilot is required by law.*

35 *(h) Willful violation of the rules and regulations adopted by the*
36 *secretary for the regulation of pilots or inland pilots.*

37 *(i) Inability to comply with the standards of health or physical*
38 *condition requisite to the duties of a pilot or inland pilot, but in*
39 *that case the burden of proving compliance with these standards*

1 *is upon the licensee, unless prior to the hearing the licensee takes*
2 *and passes those tests or examinations required by the secretary.*

3 *(j) Failure or refusal to complete training, practice trips, or*
4 *other corrective action imposed on that pilot or inland pilot by the*
5 *secretary pursuant to Section 1180.6.*

6 *1182. If, after a hearing, the secretary finds that the pilot or*
7 *inland pilot is guilty of misconduct sufficient for deprivation of*
8 *the license, the secretary shall revoke or suspend the license of*
9 *the pilot or inland pilot. The order shall be entered in the minutes*
10 *and placed in the record of the pilot maintained pursuant to Section*
11 *1121.5. The proceedings shall be conducted in accordance with*
12 *Chapter 5 (commencing with Section 11500) of Part 1 of Division*
13 *3 of Title 2 of the Government Code, and the secretary shall have*
14 *all the powers granted pursuant to that chapter.*

15 *1183. (a) Upon notification of nonrenewal of the license, a*
16 *pilot or inland pilot is entitled to a trial and hearing in the same*
17 *manner that other charges and accusations against pilots and*
18 *inland pilots are tried.*

19 *(b) In every case of nonrenewal, suspension, or revocation of*
20 *the license of a pilot or inland pilot for cause, the final decision*
21 *of the secretary is subject to judicial review in accordance with*
22 *law, and the court shall exercise its independent judgment on the*
23 *evidence.*

24
25 CHAPTER 7. PILOTAGE RATES
26

27 *1190. (a) Every vessel spoken inward or outward bound shall*
28 *pay the following rate of bar pilotage through the Golden Gate*
29 *and into or out of the Bays of San Francisco, San Pablo, and*
30 *Suisun:*

31 *(1) Eight dollars and eleven cents (\$8.11) per draft foot of the*
32 *vessel's deepest draft and fractions of a foot pro rata, and an*
33 *additional charge of 73.01 mills per high gross registered ton as*
34 *changed pursuant to law in effect on December 31, 1999. The mill*
35 *rates established by this paragraph may be changed as follows:*

36 *(A) (i) On and after January 1, 2010, if the number of pilots*
37 *licensed by the secretary is 58 or 59 pilots, the mill rate in effect*
38 *on December 31, 2006, shall be decreased by an incremental*
39 *amount that is proportionate to one-half of the last audited annual*

1 *average net income per pilot for each pilot licensed by the*
2 *secretary below 60 pilots.*

3 *(ii) On and after January 1, 2010, if the number of pilots*
4 *licensed by the secretary is fewer than 58 pilots, the mill rate in*
5 *effect on December 31, 2006, shall be adjusted in accordance with*
6 *the method described in clause (i) as though there are 58 pilots*
7 *licensed by the secretary.*

8 *(iii) The incremental mill rate adjustment authorized by this*
9 *subparagraph shall be calculated using the data reported to the*
10 *secretary for the number of gross registered tons handled by pilots*
11 *licensed under this division during the same 12-month period as*
12 *the audited annual average net income per pilot. The incremental*
13 *mill rate adjustment shall become effective at the beginning of the*
14 *immediately following quarter, commencing January 1, April 1,*
15 *July 1, or October 1, as directed by the secretary.*

16 *(iv) On and after January 1, 2010, if, during any quarter*
17 *described in this paragraph, the number of pilots licensed by the*
18 *secretary is equal to or greater than 60, clauses (i) to (iii),*
19 *inclusive, shall become inoperative on the first day of the*
20 *immediately following quarter.*

21 *(B) There shall be an incremental rate of additional mills per*
22 *high gross registered ton as is necessary and authorized by the*
23 *secretary to recover the pilots' costs of obtaining new pilot boats*
24 *and of funding design and engineering modifications for the*
25 *purposes of extending the service life of existing pilot boats,*
26 *excluding costs for repair or maintenance. The incremental mill*
27 *rate charge authorized by this subparagraph shall be identified*
28 *as a pilot boat surcharge on the pilots' invoices. Net proceeds*
29 *from the sale of existing pilot boats shall be used to reduce the*
30 *debt on the new pilot boats and any debt associated with the*
31 *modification of pilot boats under this subparagraph. The secretary*
32 *may adjust a pilot boat surcharge to reflect any associated*
33 *operational savings resulting from the modification of pilot boats*
34 *under this subparagraph, including, but not limited to, reduced*
35 *repair and maintenance expenses.*

36 *(C) In addition to the incremental rate specified in subparagraph*
37 *(B), the mill rate established by this subdivision may be adjusted*
38 *at the direction of the secretary if, after a hearing conducted*
39 *pursuant to Article 9 (commencing with Section 11120) of Chapter*
40 *1 of Part 1 of Division 3 of Title 2 of the Government Code, the*

1 *secretary determines that there has been a catastrophic cost*
2 *increase to the pilots that would result in at least a 2-percent*
3 *increase in the overall annual cost of providing pilot services.*

4 (2) *A minimum charge for bar pilotage shall be six hundred*
5 *sixty-two dollars (\$662) for each vessel piloted.*

6 (3) *The vessel's deepest draft shall be the maximum draft*
7 *attained, on a stillwater basis, at any part of the vessel during the*
8 *course of the inward or outward transit.*

9 (b) *The rate specified in subdivision (a) shall apply only to a*
10 *pilotage that passes through the Golden Gate to or from the high*
11 *seas to or from a berth within an area bounded by the Union*
12 *Pacific Railroad Bridge to the north and Hunter's Point to the*
13 *south. The rate for pilotage to or from the high seas to or from a*
14 *point past the Union Pacific Railroad Bridge or Hunter's Point*
15 *shall include a movement fee in addition to the basic bar pilotage*
16 *rate as specified by the secretary pursuant to Section 1191.*

17 (c) *The rate established in paragraph (1) of subdivision (a) shall*
18 *be for a trip from the high seas to dock or from the dock to high*
19 *seas. The rate specified in Section 1191 shall not be charged by*
20 *pilots for docking and undocking vessels. This subdivision does*
21 *not apply to the rates charged by inland pilots for their services.*

22 (d) *The secretary shall determine the number of pilots to be*
23 *licensed based on the 1986 manpower study adopted by the former*
24 *Board of Pilot Commissioners for Monterey Bay, and the Bays of*
25 *San Francisco, San Pablo, and Suisun (board).*

26 (e) *Consistent with the former board's May 2002 adoption of*
27 *rate recommendations, the rates imposed pursuant to paragraph*
28 *(1) of subdivision (a) that are in effect on December 31, 2002,*
29 *shall be increased by 4 percent on January 1, 2003; those in effect*
30 *on December 31, 2003, shall be increased by 4 percent on January*
31 *1, 2004; those in effect on December 31, 2004, shall be increased*
32 *by 3 percent on January 1, 2005; and those in effect on December*
33 *31, 2005, shall be increased by 3 percent on January 1, 2006.*

34 1190.1. *Every vessel that uses a pilot under this division while*
35 *navigating the waters of Monterey Bay shall pay the rate provided*
36 *by subdivisions (a) and (e) of Section 1190.*

37 1191. (a) *The secretary, pursuant to Chapter 8 (commencing*
38 *with Section 1200), shall recommend that the Legislature, by*
39 *statute, adopt a schedule of pilotage rates providing fair and*
40 *reasonable return to pilots and inland pilots engaged in ship*

1 *movements or special operations where rates for those movements*
2 *or operations are not specified in Section 1190.*

3 *(b) Every vessel using pilots and inland pilots for ship*
4 *movements or special operations that do not constitute bar pilotage*
5 *shall pay the rate specified in the schedule of pilotage rates*
6 *adopted by the Legislature.*

7 *(c) Consistent with the former board's adoption of rate*
8 *recommendations in May 2002, the minimum rates imposed*
9 *pursuant to this section that are in effect on December 31, 2002,*
10 *shall be increased by 26 percent on January 1, 2003; those in*
11 *effect on December 31, 2003, shall be increased by 26 percent on*
12 *January 1, 2004; those in effect on December 31, 2004, shall be*
13 *increased by 14 percent on January 1, 2005; and those in effect*
14 *on December 31, 2005, shall be increased by 14 percent on*
15 *January 1, 2006.*

16 *1192. If a vessel that is subject to the payment of pilotage enters*
17 *any port of Monterey Bay and the Bays of San Francisco, San*
18 *Pablo, or Suisun solely by reason of being in distress or requiring*
19 *care, it shall pay one-half the full pilotage rates.*

20 *1193. (a) Only the following noncommercial vessels that use*
21 *pilotage services are exempt from the pilotage fees and surcharges*
22 *established pursuant to this division, except for the secretary*
23 *operations surcharge as established and calculated pursuant to*
24 *Section 1124.1:*

25 *(1) Maritime academy training vessels, whether foreign or*
26 *domestic.*

27 *(2) Vessels owned and operated by a nonprofit museum or*
28 *foundation.*

29 *(b) The vessels specified in subdivision (a) are subject to Section*
30 *1198.*

31 *1195. (a) In addition to other fees for pilotage, there shall be*
32 *a surcharge in an amount established by the secretary for each*
33 *movement of a vessel using pilot services for each pilot trainee*
34 *who is enrolled in the pilot trainee training program established*
35 *by the secretary.*

36 *(b) The moneys charged and collected each month from the*
37 *pilot trainee surcharge shall be paid to the secretary. The moneys*
38 *shall be used only to fund the pilot trainee training program in*
39 *the manner established by the secretary.*

1 (c) By action of the secretary, the secretary may adjust the
2 amount established pursuant to subdivision (a) as necessary to
3 efficiently administer the pilot trainee training program.

4 1195.1. (a) The moneys charged and collected each month
5 from the pilot trainee surcharge pursuant to Section 1195 shall
6 be paid to the Bar Pilot Special Fund pursuant to Section 1124.
7 The moneys shall be used only to fund the pilot trainee training
8 program referred to in subdivision (h) of Section 1171.5 and
9 Section 1195.3.

10 (b) Information regarding moneys remitted to the Bar Pilot
11 Special Fund pursuant to Section 1124 collected from the
12 surcharge authorized pursuant to Section 1195, or otherwise
13 collected by the secretary for that purpose, and information
14 regarding moneys spent as pilot trainee training program expenses
15 authorized by Section 1195.3 shall be made available to the public
16 upon request and to the secretary.

17 1195.3. Expenses of the pilot trainee program shall include
18 all costs incurred by the secretary in the operation and
19 administration of the pilot trainee training program and all costs
20 resulting from any contracts entered into for the purchase or lease
21 of goods and services required by the secretary, including, but not
22 limited to, the costs of testing, test preparation, advertising and
23 soliciting for trainee applicants, trainee stipends, worker's
24 compensation insurance premiums, reimbursement of costs of
25 services provided to the secretary by other governmental entities,
26 and for the costs for any other goods and services necessary for
27 effectuating the purposes of training as determined by the
28 secretary.

29 1196. (a) In addition to other fees for pilotage, there shall be
30 a surcharge in an amount established by the secretary for each
31 movement of a vessel using pilot services for the pilot and inland
32 pilot continuing education program established by the secretary.

33 (b) The moneys charged and collected each month from the
34 pilot and inland pilot continuing education program surcharge
35 shall be paid to the secretary. The moneys shall be used only to
36 fund the pilot and inland pilot continuing education program in
37 the manner established by the secretary.

38 (c) By action of the secretary, the secretary may adjust the
39 amount established pursuant to subdivision (a) as necessary to

1 *efficiently administer the pilot and inland pilot continuing*
2 *education program.*

3 *1196.1. (a) The moneys charged and collected each month*
4 *from the pilot and inland pilot continuing education surcharge*
5 *pursuant to Section 1196 shall be paid to the Bar Pilot Special*
6 *Fund pursuant to Section 1124. The moneys shall be used only to*
7 *fund the pilot and inland pilot continuing education program*
8 *referred to in subdivision (h) of Section 1171.5 and Section 1196.3.*

9 *(b) Information regarding moneys remitted to the Bar Pilot*
10 *Special Fund pursuant to Section 1124 collected from the*
11 *surcharge authorized pursuant to Section 1196, or otherwise*
12 *collected by the secretary for that purpose, and information*
13 *regarding moneys spent as pilot and inland pilot continuing*
14 *education expenses authorized by Section 1196.3 shall be made*
15 *available to the public upon request to the secretary.*

16 *1196.3. Pilot and inland pilot continuing education expenses*
17 *shall include all costs incurred by the secretary in the operation*
18 *and administration of the pilot and inland pilot continuing*
19 *education program and all costs resulting from any contracts*
20 *entered into for the purchase or lease of goods and services*
21 *required by the secretary, including, but not limited to, the*
22 *reimbursement of costs of services provided to the secretary by*
23 *other governmental entities, and for the costs for any other goods*
24 *and services necessary for effectuating the purposes of continuing*
25 *education as determined by the secretary.*

26 *1198. (a) Except as provided in subdivision (c), the rates and*
27 *charges for pilotage services shall not include the cost of primary*
28 *marine insurance insuring a pilot, an organization of pilots, or*
29 *their officers or employees, from liability arising from negligence*
30 *or errors in judgment in connection with the provision of pilotage*
31 *service by pilots, organizations of pilots, or their officers or*
32 *employees.*

33 *(b) A pilot who holds a state license for the Bays of San*
34 *Francisco, San Pablo, and Suisun shall arrange to have available,*
35 *upon advance written notice, trip insurance, with coverage limits*
36 *of thirty-six million dollars (\$36,000,000), naming as insureds the*
37 *pilot, any organization of pilots to which the pilot belongs, and*
38 *their officers and employees, and insuring the named insureds*
39 *against any civil claim, demand, suit, or action by whomsoever*
40 *asserted, arising out of, or relating to, directly or indirectly, acts*

1 *or omissions of the insureds in connection with the provision of*
2 *pilotage service, except willful misconduct.*

3 *(c) Every vessel, owner, operator, or demise or bareboat*
4 *charterer hiring a pilot with a state license for the Bays of San*
5 *Francisco, San Pablo, and Suisun shall either defend, indemnify,*
6 *and hold harmless pilots pursuant to paragraph (1), or*
7 *alternatively, notify pilots of an intent to pay for trip insurance*
8 *pursuant to paragraph (2). If a vessel or its owner, operator, or*
9 *demise or bareboat charterer does not provide written notice*
10 *pursuant to paragraph (2) of an intent to exercise the trip insurance*
11 *option, then the vessel and its owner, operator, and demise or*
12 *bareboat charterer will be deemed to have elected the obligation*
13 *to defend, indemnify, and hold harmless pilots pursuant to*
14 *paragraph (1).*

15 *(1) (A) Except for a vessel electing trip insurance pursuant to*
16 *paragraph (2), a vessel subject to this subdivision, and its owner,*
17 *operator, demise or bareboat charterer, and agent shall not assert*
18 *any claim, demand, suit, or action against the pilot, any*
19 *organization of pilots to which the pilot belongs, and their officers*
20 *and employees, for damages, including any rights over, arising*
21 *out of, or connected with, directly or indirectly, any damage, loss,*
22 *or expense sustained by the vessel, its owners, agents, demise or*
23 *bareboat charterers, operators, or crew, or by any third parties,*
24 *even if the damage results, in whole, or in part, from any act,*
25 *omission, or negligence of the pilot, any organization of pilots to*
26 *which the pilot belongs, and their officers and employees.*

27 *(B) A vessel subject to this paragraph and its owner, operator,*
28 *and demise or bareboat charterer shall defend, indemnify, and*
29 *hold harmless the pilot, any organization of pilots to which the*
30 *pilot belongs, and their officers and employees, with respect to*
31 *liability arising from any claim, suit, or action, by whomsoever*
32 *asserted, resulting in whole, or in part, from any act, omission, or*
33 *negligence of the pilot, any organization of pilots to which the*
34 *pilot belongs, and their officers and employees. The obligation to*
35 *indemnify under this paragraph shall not apply to the extent that*
36 *it causes the amount recoverable from a vessel, its owner, operator,*
37 *or demise or bareboat charterer to exceed the limits of liability to*
38 *which it is entitled under any bill of lading, charter party, contract*
39 *of affreightment, or provision of law.*

1 (C) *The prohibition on claims by vessels, owners, operators,*
2 *demise or bareboat charterers, and agents imposed by*
3 *subparagraph (A) and the obligation to defend, indemnify, and*
4 *hold harmless the pilot imposed by subparagraph (B) shall not*
5 *apply in cases of willful misconduct by a pilot, any organization*
6 *of pilots to which the pilot belongs, and their officers and*
7 *employees.*

8 (D) *A pilot who is the prevailing party shall be awarded*
9 *attorney's fees and costs incurred in any action to enforce a right*
10 *to indemnification provided pursuant to this subdivision.*

11 (2) *In lieu of paragraph (1), a vessel subject to this subdivision*
12 *and its owner, operator, demise or bareboat charterer, and agent*
13 *may elect to notify the pilot, or the organization of pilots to which*
14 *the pilot belongs, of intent to pay for trip insurance, as described*
15 *in subdivision (b). If notice of this election is received, in writing,*
16 *by the pilot, or the organization of pilots to which the pilot belongs,*
17 *at least 24 hours prior to the time pilotage services are requested,*
18 *the vessel, and its owner, operator, demise or bareboat charterer,*
19 *and agent are not subject to the requirements of paragraph (1).*
20 *The pilot shall take all steps necessary to have trip insurance*
21 *coverage in place during the vessel movement for which it is*
22 *requested. The pilot shall assess to the vessel the premium for the*
23 *trip insurance at the pilot's cost, in addition to any other applicable*
24 *rates and charges for the pilotage services provided.*

25 (d) *Nothing in this section is intended to limit, alter, or diminish*
26 *the liability of a vessel, owner, operator, or demise or bareboat*
27 *charterer to any person who sustains loss or damage.*

28
29 CHAPTER 8. PILOTAGE RATE RECOMMENDATIONS
30

31 1200. *The secretary shall, from time to time, review pilotage*
32 *expenses and establish guidelines for the evaluation and*
33 *application of these expenses regarding its recommendations for*
34 *adjustments in rates.*

35 1201. *Any party directly affected by pilotage rates established*
36 *under this chapter may petition the secretary for a public hearing*
37 *on any of the matters set forth in Section 1200. Within 10 days*
38 *from the filing of the petition the secretary shall call public*
39 *hearings to be held not less than 30 nor more than 60 days of the*
40 *date of call for the purpose of obtaining information and data*

1 relating to the issues raised in the petition. The secretary shall
2 give notice of the hearings to all interested parties who have
3 requested the notification. At the conclusion of the hearing or
4 hearings, the secretary shall review and evaluate all evidence
5 obtained and, within 120 days from the filing of the petition, shall
6 submit to the Secretary of the Senate and the Chief Clerk of the
7 Assembly a copy of its findings and recommendations for final
8 determination, supported by a transcript of these proceedings of
9 the secretary.

10 1201.5. (a) The secretary shall not receive written evidence
11 at a public hearing held for the purpose of considering pilotage
12 rates unless 10 or more copies of the evidence have been deposited
13 with the secretary as public documents by the party proposing a
14 rate adjustment 30 or more days prior to the date set for the
15 commencement of the hearing.

16 (b) The secretary shall not receive written evidence at the
17 hearing from any party responding to the request unless the
18 evidence is deposited with the secretary 10 or more days prior to
19 the date set for the commencement of the hearing.

20 1202. Public hearings for the purpose of investigating pilotage
21 rates shall be conducted in accordance with the Bagley-Keene
22 Open Meeting Act (Article 9 (commencing with Section 11120) of
23 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
24 Code) and a full record shall be kept of all evidence offered.

25 1203. In preparing recommendations to the Legislature with
26 relationship to pilotage rates, the secretary may require an
27 independent audit or audits by a public accountant selected by the
28 secretary. The audits required by the secretary shall cover pilotage
29 operations for those years which the secretary may specify. In
30 preparing the recommendations, the secretary shall also give
31 consideration to other relevant factors, including, but not limited
32 to, the following:

33 (a) The costs to the pilots, individually or jointly, of providing
34 pilot service as required.

35 (b) A net return to the pilot sufficient to attract and hold persons
36 capable of performing this service with safety to the public and
37 protection to the property of persons using the service; and the
38 relationship of that income to any changes in cost-of-living indices.

39 (c) Pilotage rates charged for comparable services rendered
40 in other ports and harbors in the United States.

1 (d) *The methods of determining pilotage rates in other ports*
2 *and harbors in the United States.*

3 (e) *Economic factors affecting the local shipping industry,*
4 *including prospective increases or decreases in income and labor*
5 *costs.*

6 (f) *Additional factors affecting income to pilots, such as the*
7 *volume of shipping traffic using pilotage, numbers of pilots*
8 *available to perform services, income paid for comparable services,*
9 *and other factors of related nature.*

10 (g) *Changes in, or additions to, navigational and safety*
11 *equipment necessary to insure protection of persons, ships, and*
12 *waterways.*

13
14 CHAPTER ~~6-9~~. EFFECTIVE DATE

15
16 ~~1170.~~

17 1220. This division shall become operative on January 1, ~~2013~~
18 2014.

19 SEC. 2. Chapter 7 (commencing with Section 1220) is added
20 to Division 5 of the Harbors and Navigation Code, to read:

21
22 CHAPTER ~~7-10~~. REPEAL DATE

23
24 1220. This division shall remain in effect only until January
25 1, ~~2013~~ 2014, and as of that date is repealed, unless a later enacted
26 statute that is enacted before January 1, ~~2013~~ 2014, deletes or
27 extends that date.